

NTSB Order No. EA-4906

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 15th day of August, 2001

Respondent .

7364

43.13(a) and 43.13(b)² alleged in the Administrator's Order of Revocation, but reduced the sanction to a 225-day suspension of all mechanic certificates held by respondent.³ We deny the appeal.

² Section 43.13 (14 C.F.R. Part 43) provides, in relevant part, as follows:

§ 43.13 Performance rules (general).

(a) Each person performing maintenance, alteration, or preventive maintenance on an aircraft, engine, propeller, or appliance shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices acceptable to the Administrator, except as noted in § 43.16. s He shall use the tools, equipment, and test apparatus necessary to assure completion of the work in accordance with accepted industry practices. If special equipment or test apparatus is recommended by the manufacturer involved, he must use that equipment or apparatus or its equivalent acceptable to the Administrator.

(b) Each person maintaining or altering, or performing preventive maintenance, shall do that work in such a manner and use materials of such a quality, that the condition of the aircraft, airframe, aircraft engine, propeller, or appliance worked on will be at least equal to its original or properly altered condition (with regard to aerodynamic function, structural strength, resistance to vibration and deterioration, and other qualities affecting airworthiness).

* * * * *

³ The Administrator's Order of Revocation sought any and all mechanic certificates held by respondent, including his mechanic certificate with airframe and powerplant ("A&P") ratings. The law judge, after counsel for the Administrator conceded that revocation in this case would not be consistent with precedent, reduced the sanction to a 225-day suspension of respondent's mechanic certificate(s). The Administrator did not appeal the modification.

The Administrator's complaint,⁴ in pertinent part, alleged:

1. At all times material hereto, you were and are the holder of Mechanic Certificate No. 314622455 with Airframe and Powerplant Ratings.

2. On or about April 21, 1994, you performed maintenance and alterations on civil aircraft N154TL, a UH-1E helicopter.

3. At the time of said inspection, you failed to use the methods, techniques and practices prescribed in the manufacturers maintenance manual or otherwise acceptable to the Administrator in that:

a. You altered the forward engine bulkhead by adding an unapproved part.

b. You improperly attached the forward engine bulkhead to the flange of the engine bellmouth assembly.

c. You installed the engine mount fittings when the mounting bolt holes had been damaged (elongated) by improper drilling.

d. You installed a damaged right hand upper tail boom mount fitting which had an improperly drilled tailboom mount bolt hole.

e. You installed countersunk rivets into two incorrectly located holes in the right hand beam cap and thereafter, ground the tails flush with the beam cap surface.

f. You installed an upper left hand tail boom mount fitting which contained unauthorized, oversized, mounting holes and an unauthorized steel busing pressed into its engine mount bolt hole.

4. As a result of the maintenance and repairs described above, you did not do the work in such a manner that the condition of the aircraft was in its original or properly altered

⁴ The Administrator filed her Order of Revocation as the complaint in this proceeding. See 49 C.F.R. § 821.31.

condition.

At the first session of the bifurcated hearing,⁵ the Administrator presented the testimony of Paul Matero, who, in 1996 as an employee of a repair facility, discovered the discrepancies noted in the Administrator's complaint. Mr. Matero also sponsored photographs of the discrepancies. The Administrator also presented the testimony of James Crawford, Jr., owner of Timberline Air Services, Inc., the owner of the helicopter, and respondent's employer at the time of the alleged violations. Mr. Crawford testified that until the engine and tailboom were removed in 1996, the discrepancies were hidden, and, in essence, that the discrepancies are not attributable to any maintenance except respondent's 1994 work. Finally, FAA Principal Maintenance Inspector Robert Bilak testified that, in his opinion, respondent's work, as reflected by the noted discrepancies, did not exhibit the care, judgment and responsibility expected of him as a certificate holder, that the repairs were not in accordance with practices acceptable to the Administrator, that the helicopter was not airworthy as repaired by respondent, and that the repairs endangered the helicopter and persons aboard it.

Respondent, who testified at the later hearing

⁵ Respondent did not attend this session of the hearing, and so no cross-examination was conducted upon the Administrator's witnesses.

session,⁶ denied using unserviceable parts, and suggested that overstress and wear during helicopter operations caused the discrepancies.⁷

The law judge, after making a credibility finding against respondent's claim that he did not utilize unserviceable parts (such as the misdrilled fittings), found that the Administrator demonstrated by a preponderance of the evidence that respondent did, in fact, install unserviceable parts in the course of his 1994 repair work, and that he also utilized improper practices and unauthorized parts during that work. Accordingly, he affirmed the violations of FAR sections 43.13(a) and 43.13(b).

On appeal, respondent raises numerous collateral issues, but nothing germane to the salient issue: whether the law judge erred in affirming the Administrator's complaint. For example, neither respondent's previous awards for excellence, nor alleged improprieties of other mechanics or operators, are relevant to the issue of whether the Administrator proved the factual allegations and the

⁶ Although respondent pursues this appeal pro se, he was represented by counsel at the second hearing session.

⁷ Respondent also presented, via deposition testimony, the expert testimony of Richard Thayer, a certificated mechanic with A&P ratings, as well as an Inspection Authorization. Mr. Thayer agreed, during cross-examination, that some of the discrepancies, such as misdrilled holes, would not have been caused by overstress.

regulatory violations cited in her complaint.⁸ We have examined the record, and read respondent's letter-style appeal brief carefully, and, we see no basis to disturb the law judge's decision.

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied;
2. The Administrator's Order of Revocation, as modified by the law judge as to sanction, is affirmed; and
3. The 225-day suspension of respondent's mechanic certificate(s) shall begin 30 days after the service date indicated on this opinion and order.⁹

CARMODY, Acting Chairman, and HAMMERSCHMIDT and BLACK, Members of the Board, concurred in the above opinion and order. Member GOGLIA did not concur.

⁸ Similarly, respondent's arguments about the form 337 are misplaced, for they provide no basis to disturb the law judge's assessment of the relevance of that document (or, for that matter, his credibility-based determination that FAA inspector Hicks did not personally inspect and approve respondent's work) to the Administrator's charge that respondent's work was deficient.

⁹ For purposes of this order, respondent must physically surrender his mechanic certificate(s) to an appropriate representative of the FAA pursuant to FAR § 61.19(f).